

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

TERRELL E. DAWSON

APPELLANT,

**v.
STATE OF MISSOURI**

RESPONDENT.

DOCKET NUMBER WD70702

DATE: June 15, 2010

Appeal From:

Buchanan County Circuit Court
The Honorable Patrick K. Robb, Judge

Appellate Judges:

Division One: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and Cynthia L. Martin, Judges

Attorneys:

Edward Scott Thompson, St. Louis, MO, for appellant.

Shaun J. Mackelprang and Daniel N. McPherson, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

TERRELL E. DAWSON,

APPELLANT,

v.

STATE OF MISSOURI,

RESPONDENT.

No. WD70702

Buchanan County

Before Division One Judges: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and Cynthia L. Martin, Judges

Terrell Dawson appeals from the denial of his Rule 29.15 motion for post-conviction relief. Dawson claims he received ineffective assistance of counsel. Dawson contends that trial counsel failed to particularize the prejudice that would result if the trial court did not sever Dawson's trial from that of a co-defendant. Dawson also contends that trial counsel was ineffective because trial counsel failed to object to a co-actor's invocation of his Fifth Amendment right to remain silent.

AFFIRMED.

Division One holds:

Dawson has failed to allege any additional facts which, if alleged by trial counsel, would have warranted severance of his trial from that of a co-defendant. Dawson cannot demonstrate, and has not argued, that it would have been an abuse of discretion for the trial court to deny Dawson's motion to sever had trial counsel presented additional particularized support for the motion.

Dawson did not overcome the presumption that trial counsel's failure to object to a co-actor's assertion of the Fifth Amendment was anything other than reasonable trial strategy. Dawson has not alleged that an objection to the co-actor's testimony would have been sustained.

Opinion by: Cynthia L. Martin, Judge

June 15, 2010

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